

CERTIFICATION OF ENROLLMENT

SENATE BILL 6417

Chapter 266, Laws of 2004

58th Legislature
2004 Regular Session

ELECTIONS--STATUTE REORGANIZATION

EFFECTIVE DATE: 7/1/04

Passed by the Senate February 3, 2004
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 2, 2004
YEAS 95 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SENATE BILL 6417 as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

Approved March 31, 2004.

FILED

March 31, 2004 - 3:17 p.m.

GARY F. LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6417

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senators Roach and Kastama; by request of Secretary of State

Read first time 01/20/2004. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to reorganization of statutes on elections;
2 amending RCW 29A.04.255, 29A.04.330, 29A.08.320, 29A.08.620,
3 29A.08.720, 29A.16.040, 29A.20.020, 29A.60.030, 29A.60.080, and
4 29A.60.190; reenacting and amending RCW 29A.84.240; reenacting RCW
5 29.04.075, 29.04.260, 29.33.305, 29.79.075, 29A.32.120, 29A.40.070,
6 29A.48.010, 29A.48.020, and 29A.84.270; adding new sections to chapter
7 29A.04 RCW; adding a new section to chapter 29A.12 RCW; adding a new
8 section to chapter 29A.72 RCW; recodifying RCW 29.04.075 and 29.04.260,
9 29.33.305, and 29.79.075; repealing RCW 29.51.215; and providing an
10 effective date.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **Sec. 1.** RCW 29.04.075 and 2003 c 109 s 1 are each reenacted to
13 read as follows:

14 The secretary of state, or any staff of the elections division of
15 the office of secretary of state, may make unannounced on-site visits
16 to county election offices and facilities to observe the handling,
17 processing, counting, or tabulation of ballots.

1 **Sec. 2.** RCW 29.04.260 and 2003 c 48 s 1 are each reenacted to read
2 as follows:

3 (1) The election account is created in the state treasury.

4 (2) The following receipts must be deposited into the account:

5 Amounts received from the federal government under Public Law 107-252
6 (October 29, 2002), known as the "Help America Vote Act of 2002,"
7 including any amounts received under subsequent amendments to the act;
8 amounts appropriated or otherwise made available by the state
9 legislature for the purposes of carrying out activities for which
10 federal funds are provided to the state under Public Law 107-252,
11 including any amounts received under subsequent amendments to the act;
12 and such other amounts as may be appropriated by the legislature to the
13 account.

14 (3) Moneys in the account may be spent only after appropriation.
15 Expenditures from the account may be made only to facilitate the
16 implementation of Public Law 107-252.

17 **Sec. 3.** RCW 29.33.305 and 2003 c 110 s 1 are each reenacted to
18 read as follows:

19 (1) The secretary of state shall adopt rules and establish
20 standards for voting technology and systems used by the state or any
21 political subdivision to be accessible for individuals with
22 disabilities, including nonvisual accessibility for the blind and
23 visually impaired, in a manner that provides the same opportunity for
24 access and participation, including privacy and independence, as other
25 voters.

26 (2) At each polling location, at least one voting unit certified by
27 the secretary of state shall provide access to individuals who are
28 blind or visually impaired.

29 (3) Compliance with this provision in regard to voting technology
30 and systems purchased prior to July 27, 2003, shall be achieved at the
31 time of procurement of an upgrade of technology compatible with
32 nonvisual voting methods or replacement of existing voting equipment or
33 systems.

34 (4) Compliance with subsections (2) and (3) of this section is
35 contingent on available funds to implement this provision.

36 (5) For purposes of this section, the following definitions apply:

1 (a) "Accessible" includes receiving, using, selecting, and
2 manipulating voter data and controls.

3 (b) "Nonvisual" includes synthesized speech, Braille, and other
4 output methods.

5 (c) "Blind and visually impaired" excludes persons who are both
6 deaf and blind.

7 (6) This section does not apply to voting by absentee ballot.

8 **Sec. 4.** RCW 29.79.075 and 2002 c 139 s 1 are each reenacted to
9 read as follows:

10 The office of financial management, in consultation with the
11 secretary of state, the attorney general, and any other appropriate
12 state or local agency, shall prepare a fiscal impact statement for each
13 of the following state ballot measures: (1) An initiative to the
14 people that is certified to the ballot; (2) an initiative to the
15 legislature that will appear on the ballot; (3) an alternative measure
16 appearing on the ballot that the legislature proposes to an initiative
17 to the legislature; (4) a referendum bill referred to voters by the
18 legislature; and (5) a referendum measure appearing on the ballot.
19 Fiscal impact statements must be written in clear and concise language
20 and avoid legal and technical terms when possible, and may include
21 easily understood graphics.

22 A fiscal impact statement must describe any projected increase or
23 decrease in revenues, costs, expenditures, or indebtedness that the
24 state or local governments will experience if the ballot measure were
25 approved by state voters. Where appropriate, a fiscal impact statement
26 may include both estimated dollar amounts and a description placing the
27 estimated dollar amounts into context. A fiscal impact statement must
28 include both a summary of not to exceed one hundred words and a more
29 detailed statement that includes the assumptions that were made to
30 develop the fiscal impacts.

31 Fiscal impact statements must be available online from the
32 secretary of state's web site and included in the state voters'
33 pamphlet.

34 **Sec. 5.** RCW 29A.04.255 and 2003 c 111 s 142 are each amended to
35 read as follows:

1 The secretary of state or a county auditor shall accept and file in
2 his or her office electronic facsimile transmissions of the following
3 documents:

4 (1) Declarations of candidacy;

5 (2) County canvass reports;

6 (3) Voters' pamphlet statements;

7 (4) Arguments for and against ballot measures that will appear in
8 a voters' pamphlet;

9 (5) Requests for recounts;

10 (6) Certification of candidates and measures by the secretary of
11 state;

12 (7) Direction by the secretary of state for the conduct of a
13 mandatory recount;

14 (8) Requests for absentee ballots;

15 (9) Any other election related document authorized by rule adopted
16 by the secretary of state under RCW (~~(29.04.235)~~) 29A.04.610.

17 The acceptance by the secretary of state or the county auditor is
18 conditional upon the document being filed in a timely manner, being
19 legible, and otherwise satisfying the requirements of state law or
20 rules with respect to form and content.

21 If the original copy of a document must be signed and a copy of the
22 document is filed by facsimile transmission under this section, the
23 original copy must be subsequently filed with the official with whom
24 the facsimile was filed. The original copy must be filed by a deadline
25 established by the secretary by rule. The secretary may by rule
26 require that the original of any document, a copy of which is filed by
27 facsimile transmission under this section, also be filed by a deadline
28 established by the secretary by rule.

29 **Sec. 6.** RCW 29A.04.330 and 2003 c 111 s 145 are each amended to
30 read as follows:

31 (1) All city, town, and district general elections shall be held
32 throughout the state of Washington on the first Tuesday following the
33 first Monday in November in the odd-numbered years.

34 This section shall not apply to:

35 (a) Elections for the recall of any elective public officer;

36 (b) Public utility districts, conservation districts, or district

1 elections at which the ownership of property within those districts is
2 a prerequisite to voting, all of which elections shall be held at the
3 times prescribed in the laws specifically applicable thereto;

4 (c) Consolidation proposals as provided for in RCW (~~28A.315.265~~)
5 28A.315.235 and nonhigh capital fund aid proposals as provided for in
6 chapter 28A.540 RCW.

7 (2) The county auditor, as ex officio supervisor of elections, upon
8 request in the form of a resolution of the governing body of a city,
9 town, or district, presented to the auditor at least forty-five days
10 prior to the proposed election date, may, if the county auditor deems
11 an emergency to exist, call a special election in such city, town, or
12 district, and for the purpose of such special election he or she may
13 combine, unite, or divide precincts. Except as provided in subsection
14 (3) of this section, such a special election shall be held on one of
15 the following dates as decided by the governing body:

16 (a) The first Tuesday after the first Monday in February;

17 (b) The second Tuesday in March;

18 (c) The fourth Tuesday in April;

19 (d) The third Tuesday in May;

20 (e) The day of the primary election as specified by RCW 29A.04.310;

21 or

22 (f) The first Tuesday after the first Monday in November.

23 (3) In a presidential election year, if a presidential preference
24 primary is conducted in February, March, April, or May under chapter
25 29A.56 RCW, the date on which a special election may be called under
26 subsection (2) of this section during the month of that primary is the
27 date of the presidential primary.

28 (4) In addition to subsection (2)(a) through (f) of this section,
29 a special election to validate an excess levy or bond issue may be
30 called at any time to meet the needs resulting from fire, flood,
31 earthquake, or other act of God, except that no special election may be
32 held between the first day for candidates to file for public office and
33 the last day to certify the returns of the general election other than
34 as provided in subsection (2)(e) and (f) of this section. Such special
35 election shall be conducted and notice thereof given in the manner
36 provided by law.

37 (5) This section shall supersede the provisions of any and all

1 other statutes, whether general or special in nature, having different
2 dates for such city, town, and district elections, the purpose of this
3 section being to establish mandatory dates for holding elections.

4 **Sec. 7.** RCW 29A.08.320 and 2003 c 111 s 223 are each amended to
5 read as follows:

6 (1) A person may register to vote or transfer a voter registration
7 when he or she applies for service or assistance and with each renewal,
8 recertification, or change of address at agencies designated under RCW
9 (~~(29.07.420)~~) 29A.08.310.

10 (2) A prospective applicant shall initially be offered a form
11 adopted by the secretary of state that is designed to determine whether
12 the person wishes to register to vote. The form must comply with all
13 applicable state and federal statutes regarding content.

14 The form shall also contain a box that may be checked by the
15 applicant to indicate that he or she declines to register.

16 If the person indicates an interest in registering or has made no
17 indication as to a desire to register or not register to vote, the
18 person shall be given a mail-in voter registration application or a
19 prescribed agency application as provided by RCW 29A.08.330.

20 **Sec. 8.** RCW 29A.08.620 and 2003 c 111 s 239 are each amended to
21 read as follows:

22 (1) A county auditor shall assign a registered voter to inactive
23 status and shall send the voter a confirmation notice if any of the
24 following documents are returned by the postal service as
25 undeliverable:

- 26 (a) An acknowledgement of registration;
- 27 (b) An acknowledgement of transfer to a new address;
- 28 (c) A vote-by-mail ballot, absentee ballot, or application for a
29 ballot;
- 30 (d) Notification to a voter after precinct reassignment;
- 31 (e) Notification to serve on jury duty; or
- 32 (f) Any other document other than a confirmation notice, required
33 by statute, to be mailed by the county auditor to the voter.

34 (2) A county auditor shall also assign a registered voter to
35 inactive status and shall send the voter a confirmation notice:

1 (a) Whenever change of address information received from the
2 department of licensing under RCW 29A.08.350, or by any other agency
3 designated to provide voter registration services under RCW
4 ((29.07.420)) 29A.08.310, indicates that the voter has moved to an
5 address outside the county; or

6 (b) If the auditor receives postal change of address information
7 under RCW 29A.08.605, indicating that the voter has moved out of the
8 county.

9 **Sec. 9.** RCW 29A.08.720 and 2003 c 111 s 247 are each amended to
10 read as follows:

11 (1) In the case of voter registration records received through the
12 department of licensing, the identity of the office at which any
13 particular individual registered to vote is not available for public
14 inspection and shall not be disclosed to the public. In the case of
15 voter registration records received through an agency designated under
16 RCW ((29.07.420)) 29A.08.310, the identity of the agency at which any
17 particular individual registered to vote is not available for public
18 inspection and shall not be disclosed to the public. Any record of a
19 particular individual's choice not to register to vote at an office of
20 the department of licensing or a state agency designated under RCW
21 ((29.07.420)) 29A.08.310 is not available for public inspection and any
22 information regarding such a choice by a particular individual shall
23 not be disclosed to the public.

24 (2) All poll books or current lists of registered voters, except
25 original voter registration forms or their images, shall be public
26 records and be made available for inspection under such reasonable
27 rules and regulations as the county auditor may prescribe. The county
28 auditor shall promptly furnish current lists or mailing labels of
29 registered voters in his or her possession, at actual reproduction
30 cost, to any person requesting such information. The lists and labels
31 shall not be used for the purpose of mailing or delivering any
32 advertisement or offer for any property, establishment, organization,
33 product, or service or for the purpose of mailing or delivering any
34 solicitation for money, services, or anything of value. However, the
35 lists and labels may be used for any political purpose.

1 **Sec. 10.** RCW 29A.16.040 and 2003 c 111 s 404 are each amended to
2 read as follows:

3 The county legislative authority of each county in the state
4 hereafter formed shall, at their first session, divide their respective
5 counties into election precincts and establish the boundaries of the
6 precincts. The county auditor shall thereupon designate the voting
7 place for each such precinct or whether the precinct is a vote by mail
8 precinct.

9 (1) Precinct boundaries may be altered at any time as long as
10 sufficient time exists prior to a given election for the necessary
11 procedural steps to be honored. Except as permitted under subsection
12 (~~((4))~~) (5) of this section, no precinct boundaries may be changed
13 during the period starting on the thirtieth day prior to the first day
14 for candidates to file for the primary election and ending with the day
15 of the general election.

16 (2) The county legislative authority may establish by ordinance a
17 limitation on the maximum number of active registered voters in each
18 precinct within its jurisdiction. The limitation may be different for
19 precincts based upon the method of voting used for such precincts and
20 the number may be less than the number established by law, but in no
21 case may the number exceed that authorized by law.

22 (3) Precincts in which voting machines or electronic voting devices
23 are used may contain as many as nine hundred active registered voters.
24 The number of poll-site ballot counting devices at each polling place
25 is at the discretion of the auditor. The number of devices must be
26 adequate to meet the expected voter turnout.

27 (~~((3))~~) (4) On petition of twenty-five or more voters resident more
28 than ten miles from any polling site, the county legislative authority
29 shall establish a separate voting precinct therefor.

30 (~~((4))~~) (5) The county auditor shall temporarily adjust precinct
31 boundaries when a city or town annexes unincorporated territory to the
32 city or town, or whenever unincorporated territory is incorporated as
33 a city or town. The adjustment must be made as soon as possible after
34 the approval of the annexation or incorporation. The temporary
35 adjustment must be limited to the minimum changes necessary to
36 accommodate the addition of the territory to the city or town, or to
37 establish the eligible voters within the boundaries of the new city or

1 town, and remains in effect only until precinct boundary modifications
2 reflecting the annexation or incorporation are adopted by the county
3 legislative authority.

4 ~~((The county legislative authority may establish by ordinance a
5 limitation on the maximum number of active registered voters in each
6 precinct within its jurisdiction. The limitation may be different for
7 precincts based upon the method of voting used for such precincts and
8 the number may be less than the number established by law, but in no
9 case may the number exceed that authorized by law.~~

10 ~~The county legislative authority of each county in the state
11 hereafter formed shall, at their first session, divide their respective
12 counties into election precincts and establish the boundaries of the
13 precincts. The county auditor shall thereupon designate the voting
14 place for each such precinct or whether the precinct is a vote by mail
15 precinct.~~

16 ~~(5))~~ (6) In determining the number of active registered voters for
17 the purposes of this section, persons who are ongoing absentee voters
18 under RCW 29A.40.040 shall not be counted. Nothing in this subsection
19 may be construed as altering the vote tallying requirements of RCW
20 29A.60.230.

21 **Sec. 11.** RCW 29A.20.020 and 2003 c 111 s 502 are each amended to
22 read as follows:

23 (1) A person filing a declaration of candidacy for an office shall,
24 at the time of filing, be a registered voter and possess the
25 qualifications specified by law for persons who may be elected to the
26 office.

27 (2) Excluding the office of precinct committee officer or a
28 temporary elected position such as a charter review board member or
29 freeholder, no person may file for more than one office.

30 (3) The name of a candidate for an office shall not appear on a
31 ballot for that office unless, except as provided in RCW 3.46.067 and
32 3.50.057, the candidate is, at the time the candidate's declaration of
33 candidacy is filed, properly registered to vote in the geographic area
34 represented by the office. For the purposes of this section, each
35 geographic area in which registered voters may cast ballots for an
36 office is represented by that office. If a person elected to an office
37 must be nominated from a district or similar division of the geographic

1 area represented by the office, the name of a candidate for the office
2 shall not appear on a primary ballot for that office unless the
3 candidate is, at the time the candidate's declaration of candidacy is
4 filed, properly registered to vote in that district or division. The
5 officer with whom declarations of candidacy must be filed under this
6 title shall review each such declaration filed regarding compliance
7 with this subsection.

8 (4) ~~((This section does))~~ The requirements of voter registration
9 and residence within the geographic area of a district do not apply to
10 ~~((the))~~ candidates for congressional office ~~((of a member of))~~.
11 Qualifications for the United States Congress are specified in the
12 United States Constitution.

13 **Sec. 12.** RCW 29A.32.120 and 2003 c 254 s 6 and 2003 c 111 s 812
14 are each reenacted to read as follows:

15 (1) The maximum number of words for statements submitted by
16 candidates is as follows: State representative, one hundred words;
17 state senator, judge of the superior court, judge of the court of
18 appeals, justice of the supreme court, and all state offices voted upon
19 throughout the state, except that of governor, two hundred words;
20 president and vice president, United States senator, United States
21 representative, and governor, three hundred words.

22 (2) Arguments written by committees under RCW 29A.32.060 may not
23 exceed two hundred fifty words in length.

24 (3) Rebuttal arguments written by committees may not exceed
25 seventy-five words in length.

26 (4) The secretary of state shall allocate space in the pamphlet
27 based on the number of candidates or nominees for each office.

28 **Sec. 13.** RCW 29A.40.070 and 2003 c 162 s 2 and 2003 c 111 s 1007
29 are each reenacted to read as follows:

30 (1) Except where a recount or litigation under RCW 29A.68.010 is
31 pending, the county auditor shall have sufficient absentee ballots
32 available for absentee voters of that county at least twenty days
33 before any primary, general election, or special election. The county
34 auditor must mail absentee ballots to each voter for whom the county
35 auditor has received a request nineteen days before the primary or
36 election at least eighteen days before the primary or election. For a

1 request for an absentee ballot received after the nineteenth day before
2 the primary or election, the county auditor shall make every effort to
3 mail ballots within one business day, and shall mail the ballots within
4 two business days.

5 (2) The county auditor shall make every effort to mail ballots to
6 overseas and service voters earlier than eighteen days before a primary
7 or election.

8 (3) Each county auditor shall certify to the office of the
9 secretary of state the dates the ballots prescribed in subsection (1)
10 of this section were available and mailed.

11 (4) If absentee ballots will not be available or mailed as
12 prescribed in subsection (1) of this section, the county auditor shall
13 immediately certify to the office of the secretary of state when
14 absentee ballots will be available and mailed. Copies of this
15 certification must be provided to the county canvassing board, the
16 press, jurisdictions with issues on the ballot in the election, and any
17 candidates.

18 (5) If absentee ballots were not available or mailed as prescribed
19 in subsection (1) of this section, for a reason other than a recount or
20 litigation, the county auditor, in consultation with the certification
21 and training program of the office of the secretary of state, shall
22 submit a report to the office of the secretary of state outlining why
23 the deadline was missed and what corrective actions will be taken in
24 future elections to ensure that absentee ballots are available and
25 mailed as prescribed in subsection (1) of this section.

26 (6) Failure to have absentee ballots available and mailed as
27 prescribed in subsection (1) of this section does not by itself provide
28 a basis for an election contest or other legal challenge to the results
29 of a primary, general election, or special election.

30 **Sec. 14.** RCW 29A.48.010 and 2003 c 162 s 3 and 2003 c 111 s 1201
31 are each reenacted to read as follows:

32 The county auditor may designate any precinct having fewer than two
33 hundred active registered voters at the time of closing of voter
34 registration as provided in RCW 29A.08.140 as a mail ballot precinct.
35 The county auditor shall notify each registered voter by mail that for
36 all future primaries and elections the voting in his or her precinct
37 will be by mail ballot only. In determining the number of registered

1 voters in a precinct for the purposes of this section, persons who are
2 ongoing absentee voters under RCW 29A.40.040 shall not be counted.
3 Nothing in this section may be construed as altering the vote tallying
4 requirements of RCW 29A.60.230.

5 The auditor shall mail each active voter a ballot at least eighteen
6 days before a primary, general election, or special election. The
7 auditor shall send each inactive voter either a ballot or an
8 application to receive a ballot at least eighteen days before a
9 primary, general election, or special election. The auditor shall
10 determine which of the two is to be sent. If the inactive voter
11 returns a voted ballot, the ballot shall be counted and the voter's
12 status restored to active. If the inactive voter completes and returns
13 an application, a ballot shall be sent and the voter's status restored
14 to active. The requirements regarding certification, reporting, and
15 the mailing of overseas and military ballots in RCW 29.36.270 apply to
16 mail ballot precincts.

17 If the precinct exceeds two hundred registered voters, or the
18 auditor determines to return to a polling place election environment,
19 the auditor shall notify each registered voter, by mail, of this and
20 shall provide the address of the polling place to be used.

21 **Sec. 15.** RCW 29A.48.020 and 2003 c 162 s 4 and 2003 c 111 s 1202
22 are each reenacted to read as follows:

23 At any nonpartisan special election not being held in conjunction
24 with a state primary or general election, the county, city, town, or
25 district requesting the election pursuant to RCW 29A.04.320 or
26 29A.04.330 may also request that the special election be conducted by
27 mail ballot. The county auditor may honor the request or may determine
28 that the election is not to be conducted by mail ballot. The decision
29 of the county auditor in this regard is final.

30 For all special elections not being held in conjunction with a
31 state primary or state general election where voting is conducted by
32 mail ballot, the county auditor shall, not less than eighteen days
33 before the date of such election, mail to each registered voter a mail
34 ballot. The auditor shall handle inactive voters in the same manner as
35 inactive voters in mail ballot precincts. The requirements regarding
36 certification, reporting, and the mailing of overseas and military
37 ballots in RCW 29.36.270 apply to mail ballot elections.

1 (1) Every person who signs a recall petition with any other than
2 his or her true name is guilty of a class B felony punishable according
3 to chapter 9A.20 RCW.

4 (2) Every person who knowingly (a) signs more than one petition for
5 the same recall, (b) signs a recall petition when he or she is not a
6 legal voter, or (c) makes a false statement as to (~~his or her~~)
7 residence on any recall petition is guilty of a gross misdemeanor.

8 (3) Every registration officer who makes any false report or
9 certificate on any recall petition is guilty of a gross misdemeanor.

10 **Sec. 20.** RCW 29A.84.270 and 2003 c 111 s 2115 and 2003 c 53 s 178
11 are each reenacted to read as follows:

12 Any person who with intent to mislead or confuse the electors
13 conspires with another person who has a surname similar to an incumbent
14 seeking reelection to the same office, or to an opponent for the same
15 office whose political reputation has been well established, by
16 persuading such other person to file for such office with no intention
17 of being elected, but to defeat the incumbent or the well known
18 opponent, is guilty of a class B felony punishable according to chapter
19 9A.20 RCW. In addition, all conspirators are subject to a suit for
20 civil damages, the amount of which may not exceed the salary that the
21 injured person would have received had he or she been elected or
22 reelected.

23 NEW SECTION. **Sec. 21.** RCW 29.51.215 and 2003 c 111 s 2135 are
24 each repealed.

25 NEW SECTION. **Sec. 22.** RCW 29.04.075 and 29.04.260 are each
26 recodified as sections in chapter 29A.04 RCW.

27 NEW SECTION. **Sec. 23.** RCW 29.33.305 is recodified as a section in
28 chapter 29A.12 RCW.

29 NEW SECTION. **Sec. 24.** RCW 29.79.075 is recodified as a section in
30 chapter 29A.72 RCW.

1 NEW SECTION. **Sec. 25.** This act takes effect July 1, 2004.
Passed by the Senate February 3, 2004.
Passed by the House March 2, 2004.
Approved by the Governor March 31, 2004.
Filed in Office of Secretary of State March 31, 2004.